

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KENNETH E. MARTENSEN,

Plaintiff,

VS.

GEORGE FLOCK, et al.,

Defendant.

8:06cv516

MEMORANDUM AND ORDER

This matter is before the court on filing no. 2, the Motion for Leave to Proceed In Forma Pauperis ("IFP") filed by the plaintiff, Kenneth E. Martensen. By proceeding IFP, the plaintiff subjects his complaint to review under the standards set forth in 28 U.S.C. § 1915(e)(2), which states:

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that--

(A) the allegation of poverty is untrue; or

(B) the action or appeal--

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

In addition, the plaintiff does not identify the jurisdictional basis for his claims against the defendants. Subject matter jurisdiction is a very serious concern in the federal district courts. For example, Fed. R. Civ. P. 12(h)(3) states: "Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action." Often a case which cannot be brought in federal district court may nonetheless be filed in a state court. That is because the federal district courts are courts of "limited jurisdiction," while the state courts are courts of "general jurisdiction."

The plaintiff has filed a multitude of documents relating to real property, instruments of indebtedness, loan payments and bankruptcy proceedings, together with a list of exhibits and a one-sentence complaint mentioning "fraud." That is not an acceptable method of

commencing a case in federal court. Therefore, the plaintiff will have to amend his complaint. The Clerk of Court will send the plaintiff a form he may use to explain the jurisdictional basis for this case, the facts underlying his claims, the reasons why he has provided the documents filed with the court, the remed(ies) he wants from this court and any other information he can provide to enable the court to understand the purpose of this litigation.

IT THEREFORE HEREBY IS ORDERED,

1. That filing no. 2, the Motion for Leave to Proceed In Forma Pauperis filed by the plaintiff, Kenneth E. Martensen, is granted;

2. That the Clerk of Court shall send the plaintiff a standard form for a complaint;

3. That by August 25, 2006, the plaintiff shall file an Amended Complaint, for which he may use the form provided by the Clerk of Court, and in which he shall set forth the jurisdictional and factual basis for this case, the reasons for the documents he has filed with the court, the remed(ies) he seeks and any other information he can provide to assist the court in understanding the purpose of this litigation; and

4. That in the absence of a timely and sufficient Amended Complaint, this action could be subject without further notice to dismissal without prejudice.

DATED this day 31st of July, 2006.

BY THE COURT

s/ *David L. Piester*

David L. Piester

United States Magistrate Judge